

ISSUE DATE: April 29, 1999

DOCKET NO. P-5360/NA-97-1798

ORDER APPROVING APPLICATION FOR AUTHORITY TO PROVIDE LOCAL SERVICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition of Easton Telecom
Services, Inc. for a Certificate of Authority to
Provide Local Exchange Resale Services

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PROCEDURAL HISTORY

On December 19, 1997, Easton Telecom Services, Inc. filed an application for a certificate of authority to provide resold local service in the Minnesota exchanges of US WEST Communications, Inc. (US WEST), Contel of Minnesota d/b/a GTE Minnesota (GTE), and United Telephone Company of Minnesota, now known as Sprint Minnesota, Inc. (Sprint). Easton Telecom Services, Inc. (Easton) currently holds a certificate of authority to provide resold long distance services in Minnesota.

On January 30, 1998, the Department of Public Service (the Department) filed comments recommending approval of Easton's application. The Department stated that Easton had provided the information required under Minn. Rules, Chapter 7812, for applications for authority to resell local service. The Department stated that Easton possesses the technical, managerial, and financial capability required under the rules. The Department recommended that the Commission grant Easton a certificate of authority to provide resold local service, conditioned upon the Company's submission of a complete tariff and appropriate service maps, development of a proper 911 plan, and negotiation and submission of necessary interconnection agreements with US WEST, GTE, and United.

On March 9, 1999, the Commission met to consider the application. Just prior to the meeting, Easton representatives requested further time to submit necessary information regarding the application. At the meeting, the Commission tabled the matter to allow the Company the necessary time to submit further filings.

On February 10 and March 8, 1999, Easton filed further information regarding the application, including maps showing its proposed service area.

On April 20, 1999, the Commission again met to consider the application.

FINDINGS AND CONCLUSIONS

I. THE LEGAL STANDARD

The telecommunications statute sets threshold certification requirements for all providers of telecommunications services:

No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

Minn. Stat. § 237.16, subd. 1(b)

The local competition rules¹ promulgated by the Commission set certification requirements for different categories of telecommunications services. For local resale, the rules require a showing that the applicant has the financial, technical, and managerial capability to provide the services described in the application and to comply with applicable laws, rules, and orders, including other portions of the local competition rules. Minn. Rules, part 7812.0350, subp. 3.

The rules also direct the Commission to consider the more stringent requirements applicable to facilities-based providers, set forth at Minn. Rules, part 7812.0300, subp. 3, to the extent that they may have a bearing on the applicant's technical, managerial, and financial ability to provide reasonably adequate service. Minn. Rules, part 7812.0350, subp. 3.

Other portions of the local competition rules set basic operational requirements for all local service providers. They are intended to ensure minimal levels of consumer protection and service quality, and they cover a wide range of topics. They include requirements ranging from maintaining 911 capabilities to providing a cluster of basic services to sending customers annual notice of their rights under Minnesota law and Commission rules. Minn. Rules, part 7812.0550-7812.1200.

II. COMMISSION ACTION

The Commission agrees with the Department that Easton has made a threshold showing that it meets the certification requirements of the statute and the rule. The Company has demonstrated that it has the technical, managerial, and financial resources to provide the local services described in its application and to comply with applicable laws, rules, and orders.

At the same time, however, important information about how and when service will actually be provided is missing, because it is not yet available. The Commission has not yet seen and approved the Company's interconnection agreements with incumbent carriers, its tariffs, or its 911 plan.

Without these documents the Commission cannot determine full compliance with the local

¹ Minn. Rules, Chapter 7812.

competition rules. Neither can it make a final determination that the Company's service will meet the statutory standard of being "consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules." Minn. Stat. § 237.16, subd. 1 (b).

Until these documents are filed and approved, the Company's authority to provide local service will remain conditional, as provided under Minn. Rules 7812.0350, subp. 4.

ORDER

1. The Commission grants Easton Telecom Services Inc. a certificate of authority to provide resold local service within the local service areas of US WEST Communications, Inc., Contel of Minnesota, Inc. d/b/a GTE Minnesota, and Sprint Minnesota, Inc., subject to the following conditions:
 - a. Commission review and approval of any interconnection agreements between the Company and incumbent local exchange carriers;
 - b. Commission review and approval of the Company's final tariffs;
 - c. Commission review and approval of the Company's 911 plan.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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